

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

IN RE:

JOSEPH A. VAUDO

Debtor,

Chapter 13

Case No.: 19-13881

MOTION TO EXTEND THE AUTOMATIC STAY
PURSUANT TO 11 U.S.C. §362(c)(3)(B) and MLBR 4001-1(d)

Now comes the Debtor, Joseph A. Vaudo (hereinafter the “Debtor”), through counsel, and respectfully submits this Motion to Extend the Automatic Stay pursuant to 11 U.S.C. § 362(c)(3)(B) and MLBR 4001-1(d) based on the following:

I. **Brief Statement of Facts**

1. On March 7, 2019, the Debtor filed a voluntary Chapter 13 bankruptcy petition assigned Case No. 19-10740 (“Prior Case”).
2. On September 4, 2019, the case was dismissed by the court for failure to respond to the Trustee’s Motion to Dismiss.
3. The Prior Case was filed because the Debtor’s largest creditor, Anthony Prevett, who held blanket mortgages on the Debtor’s two properties in Sandwich, MA was seeking to foreclose on both properties.
4. Due to the nature of the Debtor’s business operating a fish market and the inconsistent income coming in, the Debtor was unable to afford the plan payment along with his other obligations, and the Prior Case was dismissed.
5. On November 12, 2019, the Debtor filed a voluntary Chapter 13 bankruptcy petition assigned Case No. 19-13881 (“Present Case”).

II. Pursuant to 11 U.S.C. § 362(c) and MLBR 4001-1, the Debtor's present case was filed in good faith as to all creditors to be stayed.

6. Pursuant to 11 U.S.C. § 362(c)(3)(A), an issue with the automatic stay arises because the Debtor had a prior voluntary Chapter 13 petition pending within one (1) year of the case herein.
7. The Debtor had only one other bankruptcy case pending within the previous year preceding the filing of the present bankruptcy case, Case No. 19-10740.
8. In the Prior Case, two Motions for Relief from Stay were filed: one from G-FOUR LLC who owns the land on which the Debtor's business operates, and the other from Secured Creditor Anthony Prevett. G-FOUR LLC was granted relief from stay as the Debtor could not keep up with the rent payments. The Motion for Relief from Anthony Prevett was pending at the time the case was dismissed.
9. No presumption should arise that the present case was not filed in good faith, pursuant to 11 U.S.C. § 362(c), because: there was not more than 1 previous case under any of the chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period prior to the filing of the present case; there was not a previous case under any of the chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to file to amend the petition or other documents as required by applicable law or order of the court or provide adequate protection as ordered by the court.
10. The Debtor has filed the Present Case in good faith because he wants to protect his largest asset, his real estate. The Present Case was filed because the Debtor

was facing foreclosure of his primary residence located at 298 Route 6A East Sandwich, Massachusetts.

11. The Debtor is self-employed and operates a fish market. He receives sufficient income to make plan payments.
12. The Debtor's home was valued at \$585,200.00 at the time of filing and has encumbrances on the property that total approximately \$621,386.98. While the Debtor's property does not appear to have any equity, Secured Creditor Anthony Prevett is also secured with a UCC against the assets of the Debtor's business. As such, Anthony Prevett should be adequately protected.
13. The change of circumstances between the Debtor's Prior Case and the Present Case is that one of the Debtor's properties located at 19 Grove Street Sandwich, MA was sold back in September 2019. From the sale, the Debtor was able to pay approximately \$469,000.00 to Anthony Prevett, reducing the total due to the Secured Creditor. In addition, since the dismissal, the Debtor has been working hard to come up with an arrangement to sell the equipment located at his business at 8 Gallo Road Sandwich, MA. There is presently a seafood wholesaler who is interested in purchasing or leasing the building from the landlord, G-FOUR LLC, and this company would be interested in purchasing the Debtor's equipment. Any profit from the sale of the equipment would go to Anthony Prevett on his secured claim.
14. The Debtor filed this Present Case to save his home from foreclosure so that he would have the time to be able to sell business assets to Anthony Prevett.

15. The Debtor requests that the automatic stay be imposed and continue as to all creditors for the entire duration of the case and length of the Chapter 13 Plan.

16. The current Chapter 13 petition will be concluded with a confirmed plan that will be fully performed. The Debtor's personal affairs and financial affairs are such that a plan confirmed under Chapter 13 will be fully performed.

WHEREFORE, the Debtor, Joseph A. Vaudo, respectfully requests that the court extend the automatic stay as to all creditors for the entire duration of the case and length of the Chapter 13 Plan, and for such other and further relief as is just and proper.

Respectfully Submitted,
The Debtor,
By His Attorney,

/s/ Peter M. Daigle
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Dated: November 26, 2019

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

IN RE:)
JOSEPH A. VAUDO)
Debtor,)
_____)

Chapter 13
Case No.: 19-13881

ORDER TO EXTEND THE AUTOMATIC STAY

The Debtor's Motion to Extend the Automatic Stay pursuant to 11 U.S.C. §362(c)(3)(B) and MLBR 4001-1(d) is sustained and the Court

HEREBY FINDS AND ORDERS:

The automatic stay is imposed and extends as to all creditors for duration of the case and length of the Chapter 13 plan.

SO ORDERED.

Dated:

HONORABLE FRANK J. BAILEY
US BANKRUPTCY JUDGE

CERTIFICATE OF SERVICE

The undersigned hereby certifies a copy of the above has been served by first class mail postage prepaid upon the creditors of record as set forth on the following pages.

/s/ Peter M. Daigle

Peter M. Daigle, Esquire

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Dated: November 26, 2019

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John Fitzgerald, Asst. US Trustee

J. Alexander Watt, Esquire for G-FOUR LLC

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